

REMARKS

Initially, Applicants would like to thank the Examiner for withdrawing the objection to the drawings, and the rejections under 35 U.S.C. § 112, first and second paragraphs.

In the Official Action, claims 1-11 and 17-27 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 12/323,510. However, the Official Action indicated that claims 1-11 and 17-27 were allowable over the cited prior art, pending the receiving of a Terminal Disclaimer.

With regard to the provisional rejection of claims 1-11 and 17-27 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 12/323,510, the Official Action acknowledged that the claims were not identical, but asserted that they are not patentably distinct from each other because they are both claiming similar limitations.

Applicants respectfully traverse the provisional rejection of claims 1-11 and 17-27 on the ground of nonstatutory obvious-type double patenting, and request that the provisional rejection be withdrawn for two distinct reasons. First, the Examiner's attention is particularly drawn to the provisions of M.P.E.P Section 804 I.B.1. (page 800-17), which state "(i)f a "provisional nonstatutory obviousness-type double patenting (ODP) is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer." (emphasis added)

The following paragraph in the same section of the M.P.E.P. similarly states "(i)f provisional ODP rejections in two applications are the only rejections remaining in those

applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer." (emphasis added)

These provisions makes it clear that the earlier-filed application should be issued without a terminal disclaimer, and that a Terminal Disclaimer, if required, should only be filed in the later-filed application.

In this particular situation, the present application was filed on September 12, 2003 and is the earlier-filed application. The other application, i.e., pending Application No. 12/323,510 cited in the statement of the provisional obviousness-type double patenting rejection, was filed on November 26, 2008 and is the later-filed application. Thus, Applicants respectfully request that the provisional obviousness-typed double patenting rejection be withdrawn, and the present application be passed to issue in accordance with the above-cited provisions of the M.P.E.P.

In addition to the first distinct reason discussed above, Applicants also direct the Examiner's attention to the provisions of M.P.E.P. 804 II.B.1 (page 800-21), which state that "the analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. § 103 obviousness determination." This M.P.E.P section also states that "(a)ny obviousness-type double patenting rejection should make clear: (A) The differences between the inventions defined by the conflicting claims ...; and (B) The reasons why a person of ordinary skill in the art would conclude that the inventions defined in the claim at issue ... would have been an obvious variation... ."

These provisions makes it clear that a proper obviousness-type double patenting rejection requires the same factual findings as required by a 35 U.S.C. § 103 obviousness determination.

In this particular rejection, the formulation of the obviousness-type double patenting rejection amounts to a single sentence listing a few items and a conclusion of obviousness. Thus, Applicants respectfully submit that the obviousness-type double patenting rejection should be withdrawn for at least two reasons. First, the asserted rejection fails to establish a *prima facie* case of obviousness, since the asserted rejection does not include the required components of an obviousness rejection under 35 U.S.C. § 103. More specifically, the asserted rejection fails to provide any specific description or rationale of exactly how claims 1-21 of Application No. 12/323,510 render each of Applicants' claims 1-11 and 17-27 obvious. In fact, the asserted rejection fails to provide a descriptive obviousness rejection of any of Applicants' claims 1-11 and 17-27.

Secondly, Applicants respectfully submit that the specific combination of features recited in Applicants' claims 1-11 and 17-27 are not disclosed or rendered obvious by claims 1-21 of Application No. 12/323,510. For instance, none of claims 1-21 of Application No. 12/323, 510 appear to recite at least the specific international gateway and network switch provisions recited in each of Applicants' independent claims 1, 17, and 23.

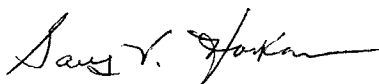
Thus, for at least the reasons discussed above, Applicants respectfully request that the provisional obviousness-typed double patenting rejection of claims 1-11 and 17-27 be withdrawn, and the present application be passed to issue.

CONCLUSION

Applicants respectfully request that the current provisional rejection of claims 1-11 and 17-27 on the ground of obviousness-type double patenting be withdrawn, and that the present application be passed to issue with allowed claims 1-11 and 17-27.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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